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ABSTRACT

Prepared by the District of Columbia Street Law Project for its annual city-wide mock trial competition, this instructional handout provides material for a civil case over an automobile accident. Walker Thomas is suing Sam Nomad for damages that resulted from a collision, for which both parties blame the other. The handout clarifies the laws and explains the legal precedents. As evidence, the handout provides the estimated costs for the repair of the vehicles; a map of the intersection where they collided; and witness statements from the plaintiff, the police officer who first arrived at the scene, the plaintiff's wife (who was in the car), the defendant, and two witnesses. Through participation in mock trials and analysis of the activity, students gain an insider's perspective on courtroom procedure and a basic understanding of the legal mechanism through which society resolves its disputes. Mock trials develop critical analysis, questioning and listening skills, and skills in preparing and organizing materials. (JD)

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ED 378 114

1977 CITYWIDE MOCK TRIAL COMPETITION

WALKER THOMAS v. SAM NOMAD

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1977 CITYWIDE MOCK TRIAL COMPETITION

WALKER THOMAS V. SAM NOMAD

STATEMENT OF FACTS

On Saturday, November 13, 1976 at approximately 11:45 P.M. a collision occurred between a 1975 Buick LeSabre and a 1976 Volvo 242. The Volvo was driven by Walker Thomas, the Buick by Sam Nomad. The accident occurred at the intersection of Independence Avenue and 6th Street, S.E.

Walker Thomas was driving northbound on Sixth Street, S.E., a one-way street, to take his then-pregnant wife to the hospital and had stopped for a red light at the corner of Sixth and Independence Avenues.

Sam Nomad, riding alone, was approaching the intersection heading east, between 5th and 6th Street on Independence Avenue, also a one-way street, when he saw an ambulance in his rearview mirror. He pulled to the right toward the southwest corner, and then into the intersection. The light as he approached the intersection was yellow.

At this point, Thomas' and Nomad's cars collided in the intersection and the ambulance passed them moving on down Independence Avenue.

Walker Thomas has filed suit in Superior Court of the District of Columbia Small Claims Branch alleging the following:

1. That damage in the amount of $674.00 had been sustained to one 1976 Volvo 242 in a collision on November 13, 1976;

2. That said damage occurred in a collision caused by the careless and negligent driving by the defendant, Sam Nomad;

3. That such negligence was the sole and proximate cause of the collision in which the damage occurred.

He asks that the court grant him the cost of repairs to his car and court costs.

Sam Nomad in his answer and counterclaim replied:

1. That he denied any negligence in the operation of his vehicle and any liability for any damage to the plaintiff Walker Thomas's vehicle;

2. That the accident was the sole and proximate result of plaintiff's negligence;

3. That plaintiff's claim is barred by the doctrine of contributory negligence; and

4. That plaintiff is indebted to defendant in the sum of $218.90, which represents the total cost of repair to defendant's vehicle.

The plaintiff, Walker Thomas, responded to the counterclaim by denying any contributory negligence and reasserting his claim.

STATEMENT OF WALKER R. THOMAS, PLAINTIFF

My name is Walker R. Thomas. I live at 332 "D" Street, S.E., Washington, D.C. I am 37 years old. I have been married to Diana Harria Walker for six years.

On Saturday, November 13, 1976, I took Diana out to dinner to celebrate our sixth wedding anniversary. It was an early evening because she wasn't feeling too good. At the time, she was seven months pregnant and had already lost one baby the year before. I had had two or three drinkgs while we were out but nothing to bother me very much. We got home about 11:00 and went right to bed. Diana said she wasn't feeling too well.

About 11:15, Diana told me that she was definitely in labor as she had a pain and wanted to go to the hospital. I drove because cabs don't like to pick up pregnant women and I didn't think an ambulance would come to the house soon enough. Like I said, she lost a baby last year and it was pretty hard on her.

We were on our way to Washington Hospital Center and had stopped at the light at the intersection of Independence and 6th S.E. Sixth Street is one way going north and I was in the left lane. I didn't hear any siren or see the ambulance until the accident. When the light on Independence Ave. turned yellow, I shifted gears so that I could go when I had the green light. I looked to the left and saw the Buick but didn't see or hear the ambulance.

When the light was green, I entered the intersection and saw this car coming at us from the left. I thought he was going to stop at the red light but he seemed to speed up and enter the intersection. The next thing I knew I slammed right into him and an ambulance with flashing lights came blasting through.

I was really worried about my wife, but fortunately she wasn't hurt. When the police officer came and had taken the report, I told him I was pretty shaken up and asked if a squad car could take my wife and I to the hospital.

The damage to my car was pretty bad. The left front fender, and bumper were damaged and the hood had to be replaced. It cost me $674.00 to get it fixed.

I have never received a traffic ticket.

STATEMENT OF SYLVIA DRIVER, POLICE OFFICER

WITNESS FOR THE PLAINTIFF

My name is Sylvia Driver and I live at 4450 14th Street, N.W., Washington, D. C. I have been a police officer for five years in the District, the last three as a traffic officer. During this time I have investigated approximately 200 accidents per year.

I was on duty Saturday night, November 13, 1976, when a call came through the dispatcher that an ambulance driver had called in an accident at the corner of 6th and Independence Avenues, S.E. The night was cold and clear. The streets were dry.

When I arrived at the scene of the accident I found the two vehicles in question blocking the right eastbound lane on Independence and the left lane on 6th Street. The car owned by the Defendant, Nomad, (Car A) had been struck on the right front by the vehicle driven by the plaintiff. Nomad's car was damaged on the fender in the front, and the hood was buckled. The plaintiff's vehicle (Car B) was damaged on the left front fender, bumper and hood. There were no personal injuries.

The plaintiff explained he was taking his wife to the hospital because she was in labor. I sent her on with a squad car. I smelled a faint trace of alcohol on the plaintiff's breath and he was shaken up by the experience, but in my opinion he was not drunk. I did not administer an alcohol test to him nor did I direct that he go to the stationhouse to have one taken.

I issued a ticket to Mr. Nomad for failing to stop at a yellow light, and for driving without a license. He also admitted to having lost his license for speeding.

I believed Mr. Thomas that he waited for the light to turn green before entering the intersection and therefore I did not issue him a citation. I interviewed all the witnesses at the scene, Mr. & Mrs. Thomas, Mr. Nomad and a Miss Marjorie Johnson who was very obnoxious toward me and was clearly trying to protect her friend, Nomad.

I stood at the crosswalk line where Mr. Thomas (Car B) was stopped before the accident. This was 15 feet from the intersection and as I looked to the left, in the direction of where Nomad and the ambulance were coming, my view was partially obstructed by the corner house and a tree in front of it. In my opinion, unless the ambulance was very close to the corner, Walker probably would not have seen it while he was waiting at the light. In addition, I believe there was room for Nomad to stop unless he was going very fast or not paying attention. Therefore I issued Nomad a ticket and believed him to have been at fault.

STATEMENT OF DIANA THOMAS

WITNESS FOR THE PLAINTIFF

My name is Diana Thomas. I live at 332 D Street, S.E., Washington, D.C. I am 30 years old. I have been married to Walker Thomas for six years.

On Saturday, November 13, 1976, Walker and I had been out to dinner to celebrate our sixth wedding anniversary. We came home early because I wasn't feeling too well. I thought it was because I had eaten too much, but about a half hour after we got home I started labor. I was really worried because I had lost a baby in 1975. So I woke Walker up so he could take me to the hospital. He insisted upon driving because he didn't trust cabs or ambulances. I was a little leery because he had had three or four drinks at dinner and I wasn't sure they had really worn off.

We had stopped for a light at the corner of 6th Street and Independence Avenue, S.E. We were in the left lane. I noticed that the light for the traffic beside us had changed to yellow; Walker started to shift gears. Our light turned green and we pulled off. This car which was driven by Nomad then came shooting into the intersection just ahead of an ambulance with a flasher and I called for Walker to watch out. I didn't see Nomad or the ambulance before the accident.

We hit him on his right front side. The whole left front of our car was mashed in. He hit the brakes really hard but we couldn't help but hit him. He came through very fast. Walker said he thought he was going to stop. He certainly had plenty of room to pull over to let the ambulance pass, and shouldn't have been in the intersection.

When we got out of the car, Mr. Nomad was very impolite and almost abusive. Here I was very much pregnant and maybe going to lose my baby and he is screaming about his car. I wish I hadn't told Walker to hurry up. He really is a good driver. I guess I made him nervous. Actually, when we got to the hospital I had no more pain and we found out later it was false labor. I had a healthy baby a month later.

DIANA THOMAS, being first duly sworn, upon her oath deposes and says:

That she is a witness for the plaintiff in the action of Walker Thomas v. Sam Nomad; that she has read the foregoing statement and knows the contents thereof; that the matters stated therein are true of her own knowledge, except as to those matters stated therein upon information and belief, and as to those matters she believes them to be true; and

FURTHER, that such contents were given freely and with her knowledge and consent in the presence and with the assistance of counsel.

_____

/s/ Diana Thomas

SUBSCRIBED AND SWORN to before me this _____day of _____, 19___.

_____

Notary Public

My commission expires:

STATEMENT OF SAM NOMAD, DEFENDANT

My name is Sam Nomad and I live at 1445 Rock Creek Ford Road, N.W. Washington, D.C. I am 21 years of age. I am a student at the University of the District of Columbia.

On Saturday, November 13, 1976, I was driving east-bound on Independence Avenue, S.E. at 11:45 P.M. on my way to pick up my lady to go to a disco. I was a little late but I wasn't going very fast; I guess about 25 miles per hour. As I approached 6th Street S.E., I saw the flashing lights in my rearview mirror. I speeded up a little to get out of the way because there were cars parked on both sides of the street and there was no place for me to move over. When I reached the intersection, the ambulance was right behind me, the light was yellow and I could see there wasn't any room for me to fit on the corner. So I eased into the intersection.

As I had approached the intersection I could see a car on my right waiting for the light to change. I figured he saw the ambulance too and would stay put until the ambulance passed; but he didn't. He jumped the light as I moved into the intersection to get out of the way of the ambulance and he hit me.

When we got out of the cars to look at the damage, I could smell liquor on his breath; his eyes were bloodshot.

At the time, I had a suspended license, as I had received too many points on my license for speeding last year. I wouldn't have been using my car at all but it had been a long time since I had taken my lady out.

My car was damaged in the front right to the tune of $218.90.

SAM NOMAD, being first duly sworn, upon his oath deposes and says:

That he is a witness for the defendant in the action of Walker Thomas v. Sam Nomad; that he has read the foregoing statement and knows the contents thereof; that the matters stated therein are true of his own knowledge, except as to those matters stated therein upon information and belief, and as to those matters he believes them to be true; and

FURTHER, that such contents were given freely and with his knowledge and consent in the presence and with the assistance of counsel.

_____
/s/ Sam Nomad

SUBSCRIBED AND SWORN to before me this ___ day of_____, 19___.

_____
Notary Public

My commission expires:

STATEMENT OF MARJORIE JONES

WITNESS FOR THE DEFENDANT

My name is Marjorie L. Jones and I live at 112 6th Street, S.E. I am 25 years old.

On Saturday, November 13, 1976, at about 11:45 P.M. I was walking my dog north on the west sidewalk of 6th St., S.E. I was about 25 or 30 feet from the intersection and saw that the light facing me was red. I figured that by the time I reached the corner it would be green. My dog started acting up and my attention was a little distracted. I didn't actually see the accident, but just before my dog pulled away, I saw the car driven by Mr. Thomas start up very quickly. I think he started before the light was completely green. I then heard a crash and saw an ambulance go speeding down Independence Avenue.

After the accident, I went over to see if I could be of any assistance as I have had some advanced first aid training. Nobody was hurt, thank goodness. Mrs. Thomas seemed to be pretty upset. I heard her say to her husband that he shouldn't have started up so fast. He was obviously drunk and really upset becuase he thought she was going to have the baby right there in the street.

When the other driver came over I was suprised to see it was someone I knew. Sam went to school with my younger sister and used to come over to the house quite a bit. I hadn't seen him for about six months before the accident. When the police officer arrived, Mr. & Mrs. Thomas seemed to gang up on poor Sam. I just hung around to see if I could be of any help to him. You can never tell about cops and drunk husbands. My ex-husband was a cop and a drunk. That's why he's my ex.

When Sam and I talked about the accident later he swore up and down the light was yellow for him and red for Thomas. I believe him. I've never known him to lie.

MARJORIE JONES, being first duly sworn, upon her oath deposes and says:

That she is a witness for the defendant in the action of Walker Thomas v. Sam Nomad; that she has read the foregoing statement and knows the contents thereof; that the matters stated therein are true of her own knowledge, except as to those matters stated therein upon information and belief, and as to those matters she believes them to be true; and

FURTHER, that such contents were given freely and with her knowledge and consent in the presence and with the assistance fo counsel.

_____

/s/ Marjorie Jones

SUBSCRIBED AND SWORN to before me this _____day of _____, 19_____.

_____

Notary Public

My commission expires:

STATEMENT OF MIKE ROPER, AMBULANCE DRIVER

WITNESS FOR THE DEFENDANT

My name is Mike Roper and I live at 1768 Old Dominion Drive in Arlington, Virginia. I am an ambulance driver with the D.C. Fire Department and have been so employed for eight years. Last year I participated in a paramedic training program for ambulance drivers.

On Saturday, November 13, 1976, we picked up a run to D.C. General Hospital, a known heart attack victim at 212 5th Street, S.E. She was in a great deal of pain and under a lot of emotional stress brought on by the attack itself. As I turned the corner of 5th onto Independence, I tried to turn on the siren and flasher; but for some unknown reason, only the flashers worked.

As we were traveling east on Independence Avenue, S.E., which is one-way, I noticed a late model Buick about 75 yards in front of me going at a normal rate of speed. It started to move to the right as I was almost on top of him. I guess he decided there wasn't much room so he pulled into the intersection. As he did so, the Volvo also entered the intersection and the two cars collided just as I went around the Buick. We couldn't stop to help because we had the heart patient, but I radioed for police and an ambulance to come to the scene. The light was yellow as the Buick entered the intersection and red upon impact.

I'm really glad he tried to get out of the way as quickly as he did. A lot of motorists just stand there in the way. Others, like the driver of the Volvo, just ignore emergency vehicles and go right along causing accidents. I don't know for sure whether the Volvo driver jumped the light but he sure should have waited until I passed.

MIKE ROPER, being first duly sworn, upon his oath deposes and says:

That he is a witness for the defendant in the action of Walker Thomas v. Sam Nomad; that he has read the foregoing statement and knows the contents thereof; that the matters stated therein are true of his own knowledge, except as to those matters stated therein upon information and belief, and as to those matters he believes them to be true; and

FURTHER, that such contents were given freely and with his knowledge and consent in the presence and with the assistance of counsel.

_____
/s/ Mike Roper

SUBSCRIBED AND SWORN to before me this ___ day of _____, 19__.

_____
Notary Public

My commission expires:

STIPULATED TO BY BOTH PARTIES

WILSON'S AUTO BODY

ESTIMATING SHEET

NAME Walker R. Thomas ADDRESS 332 "D" St., S.E. DATE 11/19/76

MAKE OF CAR Volvo YEAR 1976 TYPE 242 LICENSE NO. MILEAGE SERIAL NO.

INSURED BY None ADJUSTER INSPECTOR PHONE NO.
Home:
Business:

Description of Repairs/Replacements	Parts		Labor		Paid Amount		Sublet	
Replace Hood	400	00	100	00				
Repair left front fender			50	00				
Paint Hood			50	00				
Repair Front Bumper			50	00				
TOTAL	400	00	250	00				
TAX	24	00	0	00				
TOTAL	424	00	250	00				

TOTAL $674.00

STIPULATED TO BY BOTH PARTIES

MIKE'S AUTO REPAIR

ESTIMATING SHEET

NAME Sam Nomad ADDRESS 1445 Rock Creek Ford Road, N.W. DATE 11/25/76

MAKE OF CAR Buick YEAR 1975 TYPE LICENSE NO. MILEAGE SERIAL NO.

INSURED BY None ADJUSTER INSPECTOR PHONE NO.
Home:
Business:

Description of Repairs/Replacements	Parts		Labor		Paid Amount		Sublet	
Knock out hood			100	00				
Replace right front fender	65	00	20	00				
Paint right side of hood			30	00				
TOTAL	65	00	150	00				
TAX	3	90	0	00				
TOTAL	68	90	150	00				

TOTAL $218.90

STIPULATED TO BY BOTH PARTIES

ESTIMATING SHEET

NAME _____ ADDRESS _____ DATE _____

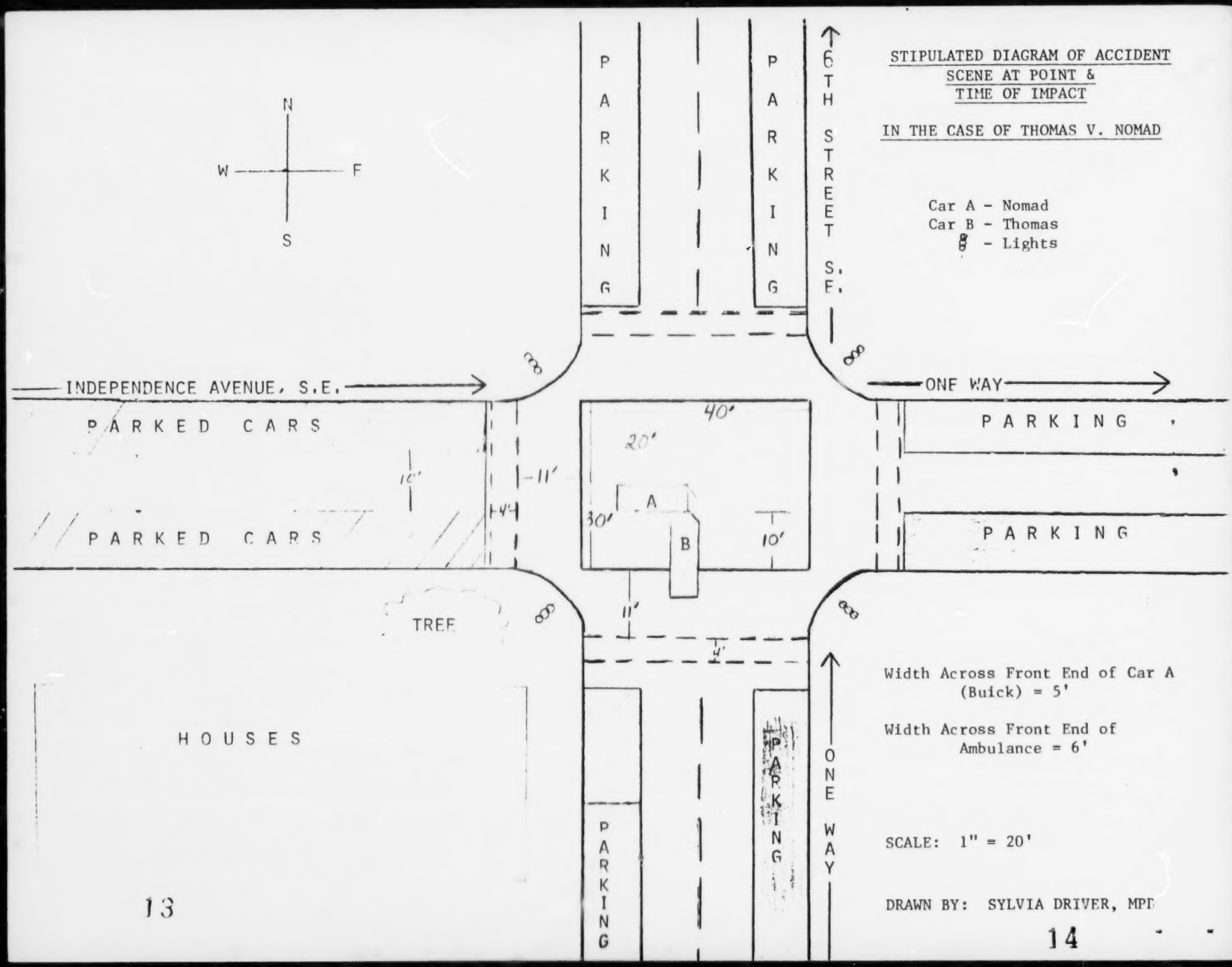
MAKE OF CAR _____ YEAR _____ TYPE _____ LICENSE NO. _____ MILEAGE SERIAL NO. _____

INSURED BY _____ ADJUSTER _____ INSPECTOR _____ PHONE NO. _____

Home:

Business:

Description of Repairs/Replacements	Parts	Labor	Paid Amount	Sublet


STIPULATED DIAGRAM OF ACCIDENT
SCENE AT POINT &
TIME OF IMPACT
IN THE CASE OF THOMAS V. NOMAD
Car A - Nomad
Car B - Thomas
- Lights
N
W
E
S
PARKING
PARKING
6TH STREET S.E.
INDEPENDENCE AVENUE, S.E.
ONE WAY
PARKED CARS
PARKED CARS
PARKING
PARKING
40'
20'
30'
A
B
10'
11'
4'
10'
11'
TREE
HOUSES
PARKING
PARKING
ONE WAY
Width Across Front End of Car A
(Buick) = 5'
Width Across Front End of
Ambulance = 6'
SCALE: 1" = 20'
DRAWN BY: SYLVIA DRIVER, MPD